

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

Case No. 3:23-cv-01092

Chief Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Alistair Newbern

**DECLARATION OF JULIA LOWD
IN SUPPORT OF DEFENDANT’S OPPOSITION TO
PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

I, Julia Lowd, declare the following:

1. I am a Member of Business Operations Staff, Product Business at Anthropic PBC (“Anthropic”) and submit this declaration in support of Anthropic’s Opposition to Plaintiffs’ Motion for Preliminary Injunction. Unless otherwise stated, all facts set forth in this declaration are within my personal knowledge.

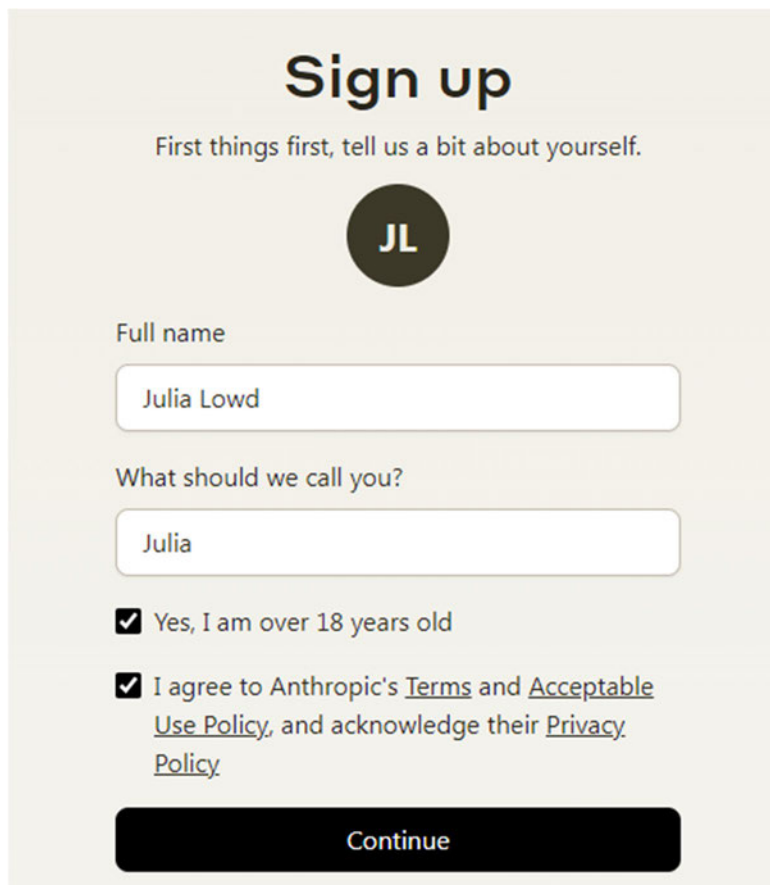
2. I have been a Member of Business Operations Staff, Product Business at Anthropic since 2023. My responsibilities in my current position include operationalizing account onboarding, maintenance, and payments, including the sign-up flow for people who want to use Anthropic’s services, as well as managing the team that provides support to users of Anthropic’s services. I have substantial knowledge about Anthropic’s business operations and practices. If called upon, I would be willing to testify as set forth in this declaration.

A. Anthropic’s Sign-Up Process and Terms of Service

3. Founded in 2021, in San Francisco, California, Anthropic is an artificial intelligence (“AI”) safety and research company that aims to create reliable, beneficial AI systems.

Anthropic’s signature product is a series of AI models known as Claude. *See* Decl. of Jared Kaplan ¶¶ 6-12 (filed simultaneously).

4. Anthropic offers Claude to all Claude.ai users in the U.S. subject to the same Terms. To access Claude, a user must first create an account on the Anthropic website, <https://claude.ai/>. To create an account, the user must: (i) enter and verify their e-mail address, (ii) verify that the user is over 18 years old, and (iii) agree to and acknowledge Anthropic’s hyperlinked Terms of Service, Acceptable Use Policy, and Privacy Policy. By checking the box and clicking “Continue,” the user specifically agrees to—and is bound by—Anthropic’s Terms of Service. Under normal system functionality, nobody can use Claude.ai without creating an account and agreeing to the Terms of Service. Attached as **Exhibit A** and shown below is a true and correct screenshot of the current account creation page on <https://claude.ai/>.



Sign up

First things first, tell us a bit about yourself.

JL

Full name

Julia Lowd

What should we call you?

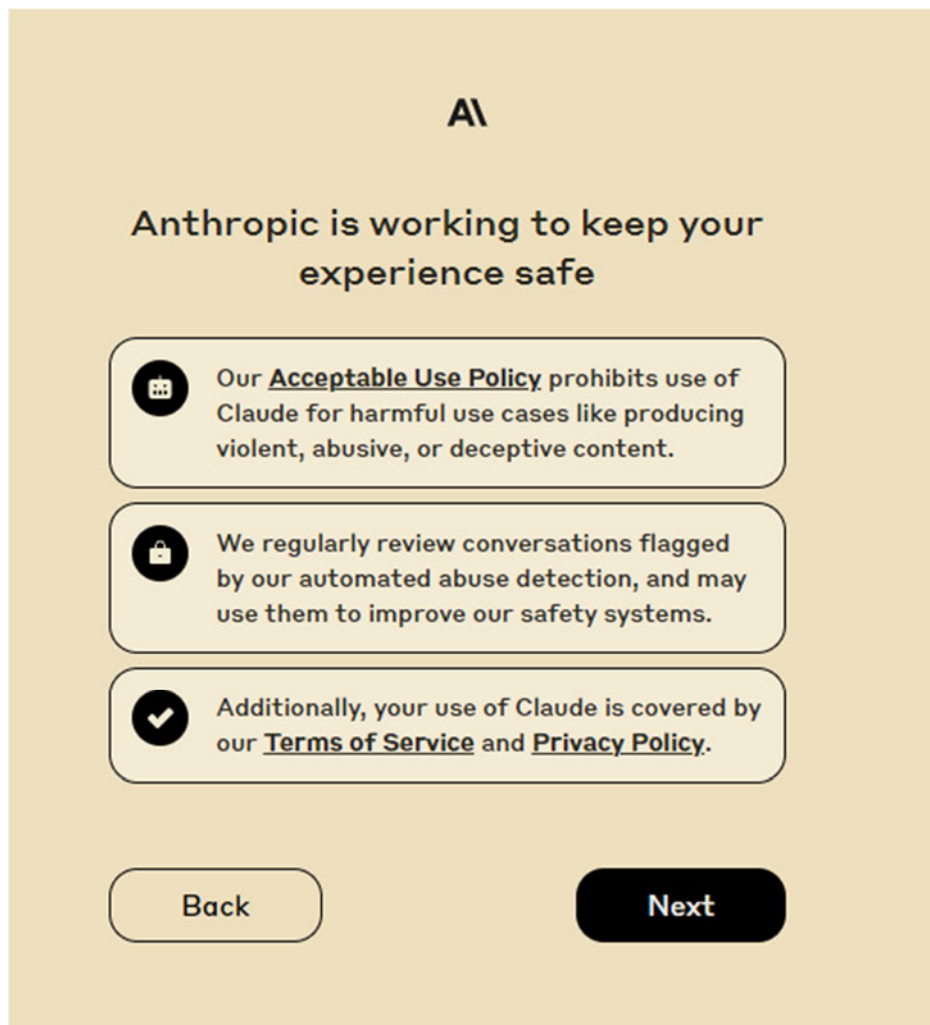
Julia

☒ Yes, I am over 18 years old

☒ I agree to Anthropic's Terms and Acceptable Use Policy, and acknowledge their Privacy Policy.

Continue

5. Additionally, before a new user is able to actually interface with Claude, Anthropic welcomes the user with a handful of disclaimers regarding the product, including that it may display incorrect or harmful information, is not intended to give professional legal, financial, or medical advice, and an explicit reminder that “your use of Claude is covered by our **Terms of Service** and **Privacy Policy**.” The phrase Terms of Service is bolded and underlined with a hyperlink that takes the user directly to the full text of the Terms. Attached as **Exhibit B** and shown below is a true and correct screenshot of the additional notification provided by Anthropic before the user can submit prompts to Claude.



6. Attached as **Exhibit C** is a true and correct copy of Anthropic’s current Terms of Service, effective September 6, 2023 through February 2, 2024.

7. Anthropic updates its Terms of Service from time to time. Attached as **Exhibit D** is a true and correct copy of Anthropic’s Terms that went into effect July 8, 2023 and remained in effect through September 5, 2023. Attached as **Exhibit E** is a true and correct copy of Anthropic’s Terms that went into effect March 29, 2023 and remained in effect through July 7, 2023. Attached as **Exhibit F** is a true and correct copy of Anthropic’s Terms that went into effect February 23, 2023 and remained in effect through March 28, 2023.

8. Anthropic’s current Terms, which govern the use of Anthropic’s website, products, and services, including Claude, as of September 6, 2023 contain an “Exclusive Jurisdiction” provision. That provision makes clear that *any* disputes arising out of or relating to the Terms will be *exclusively* resolved in the state or federal courts located in San Francisco, California. Anthropic and its users explicitly submit to personal and exclusive jurisdiction in those courts, including the Northern District of California. The Terms provide as follows:

Governing Law; Exclusive Jurisdiction. [Anthropic’s] **Terms will be governed by, and construed and interpreted in accordance with, the laws of the State of California without giving effect to conflict of law principles.** You and Anthropic agree that **any disputes arising out of or relating to these Terms will be resolved exclusively in the state or federal courts located in San Francisco, California, and you and Anthropic submit to the personal and exclusive jurisdiction of those courts.** By using the Services, you waive any claims that may arise under the laws of other jurisdictions.

Ex. C, Section 14(i) (emphasis added).¹

¹ As of February 3, 2024, Anthropic’s updated version of its Terms of Service will take effect. These forthcoming terms are available at <https://console.anthropic.com/legal/terms> and include the same “Exclusive Jurisdiction” provision provided in the current Terms. Attached as **Exhibit G** is a true and correct copy of those Terms of Service.

9. Anthropic's Terms have always required that California law govern and that any specific dispute resolution or litigation take place in San Francisco, California. For instance, earlier versions of the Terms included arbitration provisions that required resolution of "any legal or equitable claim, dispute, action, or proceeding arising from or related to your use of the services or these terms" in San Francisco, California. Ex. D, Section 15 & *id.* 15(c); Ex. E, Section 14 & *id.* Section 14(c); Exhibit F, Section 14(a). Those versions of the Terms also stated that, notwithstanding the arbitration provision, should a dispute be litigated, the user and Anthropic would submit to exclusive and personal jurisdiction in San Francisco, California. Ex. E, Section 15(i); Ex. F, Section 15(i).

10. In addition to agreeing to litigate any resulting claims in San Francisco, California, users that accept Anthropic's Terms also agree not to request the output of copyrighted material pursuant to the Terms. The current Terms include, in part, that users "may not access or use [Anthropic's] Services in . . . any manner that violates any applicable law" or use Anthropic's Services "[t]o infringe, misappropriate, or violate intellectual property or other legal rights (including the rights of publicity or privacy)." Ex. C, Section 4. Users further "represent and warrant that you have all rights, and have provided any notices and obtained any consents, that are necessary for us to process any Prompts you submit to the Services in accordance with our Terms." *Id.* Section 6(a). Intentionally prompting Anthropic's AI models to reproduce copyrighted content without authorization would violate these Terms.

11. These prohibitions existed in earlier versions of the Terms from Anthropic's inception. Ex. D, Section 4; Ex. E, Section 4; Ex. F, Section 4.

B. Plaintiffs' Anthropic User Accounts

12. Anthropic's records show that several users associated with Plaintiffs—or acting on behalf of Plaintiffs—created accounts on Anthropic's website, thereby accepting and agreeing to be bound by Anthropic's Terms, both before and after the filing of Plaintiffs' complaint.

13. For example, Anthropic's records show that Alisa Coleman, Chief Operating Officer at ABKCO Music, Inc., created an Anthropic account on November 9, 2023, and provided the email address [REDACTED] in connection with the Anthropic account.

14. Anthropic's records show that Duff Berschback, Executive Vice President of Business and Legal Affairs at Concord Music Group, Inc. created an Anthropic account on November 14, 2023, and provided the email address [REDACTED] in connection with the Anthropic account.

15. Anthropic's records also show that David Kokakis, Chief Counsel at Universal Music Publishing Group, created an Anthropic account on November 15, 2023, and provided the email address [REDACTED] in connection with the Anthropic account.

16. I further understand that third-party consultants associated with Plaintiffs in the present litigation also created accounts through the Anthropic website as early as June 9, 2023.

17. In particular, Anthropic's records indicate [REDACTED] of BCGuardian (whose Director of Intelligence provided a declaration in support of Plaintiffs' motion) created an Anthropic account on June 9, 2023, from which he alone generated 3,217 prompts between October 1, 2023 and October 17, 2023. The vast majority of those prompts asked Claude to reproduce outputs consisting of song lyrics or chord progressions. In many instances, those efforts failed. Below are two examples of failed attempts, true and correct copies of which are attached as **Exhibits H and I.**

Prompt:

Human: what are the lyrics to that's a joke by nf

Assistant:

Completion:

Unfortunately I cannot provide full lyrics due to copyright reasons. However, here is a brief summary of the song "That's a Joke" by NF:

The song is about NF's struggles with fame and mental health. He talks about putting on a facade and pretending to be happy, when deep down he's dealing with anxiety, depression and dark thoughts. He feels overwhelmed by expectations and finds it hard to open up to people. The chorus goes "Ha, that's a joke, yeah I'm doing just fine, I'm living the dream, everything's sunshine." This is sarcastic as he's clearly not fine. The song explores feelings of isolation and wanting to disappear from the limelight.

Prompt:

Human: what are the lyrics to forever now (say yes) by kristian bush

Assistant:

Completion:

Unfortunately I cannot provide full lyrics to songs due to copyright restrictions. However, here is a brief summary of the lyrics to Forever Now (Say Yes) by Kristian Bush:

The song is about wanting to commit to a relationship forever. The lyrics express wanting to say "I do" and "yes" to being together always. There are references to getting married and spending their lives together. The chorus contains the lines "It's forever now or it's never / Say yes, say yes, say yes." Overall the song has a romantic theme about committing to love and marriage.

18. Another account that appears related to Plaintiffs' pre-suit investigation is [REDACTED]. A true and correct copy of certain prompts for song and lyric combinations run by [REDACTED] is attached as **Exhibit J**. That account appears to be related to Plaintiffs' allegations that they received the lyrics to *American Pie* and the *Fresh Prince of Bel Air* without mentioning those song titles in the prompt. Compare Ex. J with Preliminary Injunction Mot. at 4-5, Seymour Decl., Ex. C at 4-5.

19. After the suit was filed, this account also entered the following prompts and received the following responses regarding Claude’s “home.” Reproduced below and attached as **Exhibit K** is a true and correct copy of that exchange.

Human: are you at home in Tennessee?

Assistant: No, I'm an AI assistant created by Anthropic. I don't actually have a physical location or home.

Human: are you at home in San Francisco?

Assistant:

Completion:

I don't actually have a home or live anywhere. As an AI, I don't have a physical embodiment or location. I was created by researchers at Anthropic in San Francisco, but I just exist in software, not a specific place.

20. Anthropic’s retention policies for prompt and output data prior to the filing of this litigation meant that I was only able to review prompts and outputs from apparent Plaintiff-associated accounts dating back to September 29, 2023. I understand that counsel for Anthropic requested from Plaintiffs records of their and their agents’ prompts and outputs of song lyrics, including “records sufficient to show all unsuccessful attempts to generate copies of the lyrics . . . using Claude,” but that Plaintiffs have not produced all such records. For example, they have not identified any records of [REDACTED] activity on their behalf dating back to June 9, 2023. Based on the limited record to date, it is impossible to say how many prompts it took Plaintiffs and their agents to generate the outputs cited in Plaintiffs’ complaint.

I declare under penalty of perjury that to the best of my knowledge, information, and belief, the foregoing statements are true and correct.

Executed on January 15, 2024 at Seattle, Washington.

A handwritten signature in black ink, appearing to read 'J. Lowd', is positioned above a horizontal line.

Julia Lowd